

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	CASE NO. 10-41418-H5-11
	§	
NADOWESSIOUX PROPERTIES, LTD.	§	(Chapter 11)
	§	
DEBTOR-IN-POSSESSION	§	
	§	
	§	
BONTECOU CONSTRUCTION, INC.	§	Adversary proc. no. 11-03060
A Wyoming corporation,	§	
	§	
Plaintiff,	§	(formerly civil action no. 2:10-cv-00275
	§	transferred from the USDC for the
vs.	§	District of Wyoming)
	§	
FIRST INTERSTATE BANK,	§	
A Montana Corporation,	§	
NADOWESSIOUX PROPERTIES,	§	
LTD., a Texas limited partnership,	§	
CHARLES M. HADEN, JR.,	§	
Individually, and SHELLY HADEN,	§	
individually.	§	
	§	
Defendants.	§	

AMENDED MOTION TO DISMISS ADVERSARY PROCEEDING

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

TO THE HONORABLE KAREN K. BROWN, UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, Bontecou Construction, Inc. (“**Bontecou**” or “**Plaintiff**”), and respectfully file this its *Motion to Dismiss Adversary Proceeding*, and show:

1. On or about November 24, 2010, Bontecou initiated suit against the Debtor, First Interstate Bank (“**FIB**”) and Charles and Shelly Haden in the Ninth Judicial District of Teton County, Wyoming (“**Lien Priority Litigation**”).

2. On or about December 6, 2010, FIB filed its Verified Answer and Counterclaim in the Lien Priority Litigation.

3. The Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code on December 15, 2010 (the “**Petition Date**”).¹

4. On or about December 23, 2010, the Debtor removed the Lien Priority Litigation to Wyoming Federal Court.

5. On or about January 28, 2011, the Wyoming Federal Court entered an order transferring venue of the Lien Priority Litigation to the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “**Adversary Proceeding**”).

6. On February 14, 2011, the Debtor filed its *Motion for an Order Granting Final Summary Judgment* in the Adversary Proceeding.

7. Charles and Shelly Haden, through counsel, filed a motion to dismiss the Adversary Proceeding.

8. Bontecou accordingly request that the Court approve an *Order Granting Motion to Dismiss Adversary Proceeding*.

¹ Main Case Docket No. 1.

WHEREFORE, PREMISES CONSIDERED, Bontecou Construction, Inc., through its undersigned counsel, respectfully request that the Adversary Proceeding be dismissed.

Respectfully submitted,

THE RICHARD LAW FIRM, P.C.

/s/ Andrea L. Richard

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- AND -

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CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2011, a true and correct copy of the foregoing *Motion to Dismiss Adversary Proceeding* was served by ECF electronic filing notice and/or U.S. First Class Mail, postage prepaid to the party listed below.

/s/ Simon Mayer

Simon Mayer

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